

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 16, 2005 PLANNING COMMISSION MEETING

**P.A.S.:** Special Permit #05005

**PROPOSAL:** To allow the sale of alcoholic beverages for consumption off the premises.

**CONCLUSION:** A liquor store is not the type of land use envisioned by the North 27<sup>th</sup> Street Redevelopment Plan, and it is not an appropriate land use at one of Lincoln's major intersections which also serves as a gateway to the Antelope Valley Redevelopment Plan and Downtown. It is not consistent with redevelopment efforts in the area, including the new CenterPointe treatment facility at North 27<sup>th</sup> and P Streets. Additionally, the drive-thru aisle on the proposed site plan does not comply with the requirements for a special permit to sell alcohol for consumption off the premises.

**RECOMMENDATION:**

Denial

### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached ownership certificate.

**LOCATION:** Northeast of the intersection of North 27<sup>th</sup> and O Streets.

**EXISTING ZONING:** B-3 Commercial

**EXISTING LAND USE:** Commercial

### **SURROUNDING LAND USE AND ZONING:**

North:	Residential	R-6
South:	Commercial	B-3
East:	Commercial	B-3
West:	Commercial	B-3

### **COMPREHENSIVE PLAN SPECIFICATIONS:**

**Page F23** - The Comprehensive Plan designates commercial land uses in this area.

**Page 156** - Appendix A Approved Subarea Plans - North 27<sup>th</sup> Street Corridor Plan.

pg. 36 - Corridor Development Principles - The mix of uses along South 27<sup>th</sup> Street has occurred by default rather than by design, as auto-oriented commercial development replaces previous uses along

a high traffic corridor. This plan proposes a mixed-use framework, using the street as an environment for both business and living.

pg. 45 - Conceptual Site Plan Major Street Intersections - Major intersections, including O, Vine, Y and Holdrege could be redesigned as nodes, providing vertical definition and establishing definable places along the 27<sup>th</sup> Street corridor.

pg. 54 - Construction of a major thematic entrance feature at O Street, using this key intersection as a point of entry to the North 27<sup>th</sup> Street district, establishing at this point the theme of 27<sup>th</sup> Street as a mixed use district, rather than of an undifferentiated commercial corridor.

### **History:**

- Nov, 2004      Comprehensive Plan Conformity #04008 approved the *Antelope Valley Redevelopment Plan*.
- Jun, 2003      Comprehensive Plan Conformity #03002 approved amendments to the *North 27<sup>th</sup> Street Corridor and Environs Redevelopment Plan* identifying a redevelopment project at this location.
- Oct 2002      *North 27<sup>th</sup> Street Corridor and Environs Redevelopment Plan* adopted.
- Mar 1998      *North 27<sup>th</sup> Street Redevelopment Plan* adopted.
- Jun 1997      *The North 27<sup>th</sup> Street Corridor Plan* was incorporated as an approved subarea plan of the Comprehensive Plan.

**BACKGROUND:** This application was on the Planning Commission's March 2, 2005 agenda, but consideration was delayed two weeks at the request of the applicant to allow time to address concerns raised by staff during the review.

This request is to allow the sale of alcohol for consumption off the premises. The applicant is proposing to locate a liquor store in the building which is currently occupied by Blimpies Restaurant.

The property is within the boundaries of the Antelope Valley and North 27<sup>th</sup> Street Redevelopment Plans, and the North 27<sup>th</sup> Street Corridor Plan subarea plan.

### **ANALYSIS:**

- 1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC) 27.63.685:** Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A

special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.**

The parking requirement for this use is one space per 600 square feet of floor area. There are 15 spaces shown on the site plan, and this is in excess of the six spaces required by LMC based upon the approximately 3,000 square feet of floor area shown on the site plan.

**(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.**

This application is for a special permit to allow the sale of alcohol for consumption off the premises. The sale of alcoholic beverages for consumption on the premises is not a part of this proposal and is not being requested.

**(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district.**

The nearest residential district is R-6 to the north. The licensed premises must be at least 100' away from the R-6, but it cannot be determined from the site plan submitted because it is not drawn to scale. For the purpose of determining the separation distance, the measurement is taken from the nearest point of the building to the north side of the alley (the alley is not zoned and the R-6 begins at the north side of the alley). The site plan must be revised and drawn to an accurate scale so a determination can be made as to whether the required separation is provided.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

The building and parking lot are developed, and no new lighting is proposed.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

The parking lot and building are being modified to accommodate a drive-through window. Design Standards require that the drive-thru lane accommodate vehicle stacking for four cars, in addition to the one being served. However, when designed to accommodate this number of vehicles, the stacking lane encroaches into the 30' rear setback and is prohibited by this condition. The site plan must be revised to eliminate vehicle stacking in the 30' rear setback.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are proposed, and are therefore not allowed as part of this application.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

There are currently both an access door and an entrance door at the rear of the building, and both are less than 150' from the R-6 to the north. If the access door is used for emergency access only, it is allowed under this provision. However, the store's entrance door is not allowed. The applicant is proposing to remodel the building and replace one of the doors with a drive-thru window, but it is not clear which door is to be removed. The site plan must clearly demonstrate that the remodel removes the entrance door, and that the second door is used only for emergency access. It should be noted that because of noncompliance with item (e) above, the drive aisle could be deleted from the plan thereby eliminating the need for the remodel that removes the entrance door. In that event, the entrance door must still be removed or there will be an access door within 150' of and facing a residential district, and the licensed premises will not comply this separation condition.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

Access to the subject premises is from North 27<sup>th</sup> Street, and there are no “residential streets” at this location.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

**(1) Revocation or cancellation of the liquor license for the specially permitted premises; or**

**(2) Repeated violations related to the operation of the permittee's business.**

**(3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

**Planning Commission approval is required for this use.**

## **2. DEPARTMENT RESPONSES:**

**POLICE:** The Police Department recommends denial of this request.

**PUBLIC WORKS:** Public Works and Utilities does not object.

**URBAN DEVELOPMENT:** STILL WAITING FOR COMMENTS.

3. CenterPointe, a health care facility for the treatment of up to 20 adults with multiple dependencies including alcohol, was approved by Special Permit #04007 on March 31, 2004. That use was determined to be in compliance with the Comprehensive Plan and with the ongoing redevelopment efforts in the area. While no specific criteria are provided in LMC 27.63.685 for evaluating general compatibility with surrounding land uses, it is an implied aspect of the special permit review process because such uses represent potential adverse impacts and are subjected to a heightened level of review. When viewed in this context, staff finds that this request is not compatible with the existing uses in the neighborhood.

4. Recent studies, such as a 1997 study entitled “Liquorlining: Liquor Store Concentration and Community Development in Lower-Income Cook County Neighborhoods” by the Woodstock Institute of Chicago, IL, have concluded that excessive concentration of liquor stores in lower-income and minority neighborhoods pose real impediments to community development. Such

studies have also concluded that liquor store density impedes the re-establishment of a healthy retail mix because they do not promote additional retail shopping.

5. Within an approximate one-half mile radius, there are at least two other off-sale outlets, one at South 26<sup>th</sup> and O Streets, and one at approximately North 21<sup>st</sup> and O Streets. There are also at least two on-sale outlets within this six-block radius.

6. The two redevelopment plans covering this area call for re-investment in uses that will stabilize the adjacent neighborhoods and promote commercial development that is compatible with and enhances those neighborhoods. Evidence suggests that liquor stores work contrary to these goals, and as a result would not serve to enhance or improve the condition of this neighborhood or the area in general. The use is also not compatible with the proposed improvements shown in the approved subarea plan, which calls for both improved definition of the major intersections, and a major thematic entrance at O Street.

7. Staff does not support this request and recommends denial. However, should the Planning Commission vote to approve it, staff recommends that approval be subject to the following conditions.

### **CONDITIONS:**

#### Site Specific:

1. This approval permits the sale of alcohol for consumption off the premises as shown on the attached site plan.

#### General:

2. Before receiving building permits:
  - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.
    - 2.1.1 Submit six copies of a revised site plan that includes:
      - A. A revised parking lot showing no portion of the drive-thru stacking lane located in the 30' rear setback.
      - B. Both the 30' rear building setback line, and the distance from the northern-most point of the building to the north line of the alley clearly delineated and dimensioned.
      - C. The site plan drawn to scale including all building and property line dimensions.
      - C. The area of the licensed premises clearly delineated.

- E. The floor area/parking calculations.
- F. The drive-thru window clearly identified.
- G. All doorways shown with emergency access doors clearly labeled.
- H. A note that states "A REAR ENTRANCE DOOR IS PROHIBITED WITH THIS BUILDING, AND THE EXISTING REAR ENTRANCE DOOR MUST BE REMOVED. A DRIVE-THRU WINDOW MAY BE LOCATED IN ITS PLACE."

Standard:

- 3. The following conditions are applicable to all requests:
  - 3.1 Before the sale of alcohol for consumption off the premises, all development and construction is to comply with the approved plans.
  - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

Prepared by:

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Brian Will, AICP, 441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
Planner  
March 2, 2005

**OWNER/  
APPLICANT:**

Robert Hall  
800 Lakewood Drive  
Lincoln, NE 68510  
(402) 488-1515

SP#05005  
Off-sale  
2700 O Street

Page 8

**CONTACT:** J. Michael Rierdon  
645 M Street Suite 200  
Lincoln, NE 68508  
(402) 476-2413





2002 aerial

## Special Permit #05005 2700 'O' St.

### Zoning:

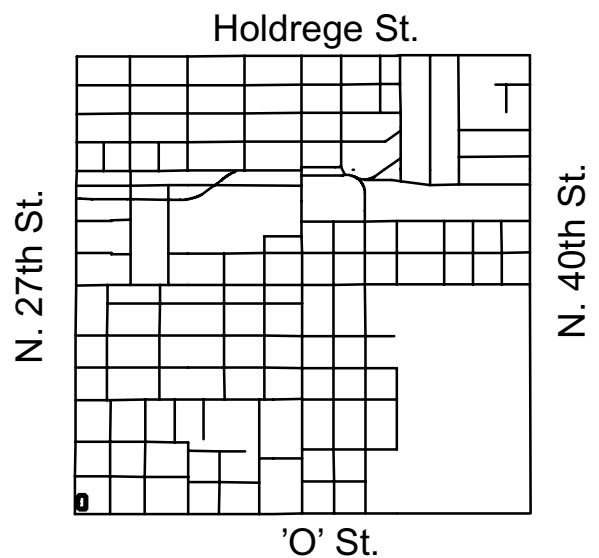
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 19 T10N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



Lincoln City - Lancaster County Planning Dept.



"O" STREET

JAN 27 2005

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6/24/05

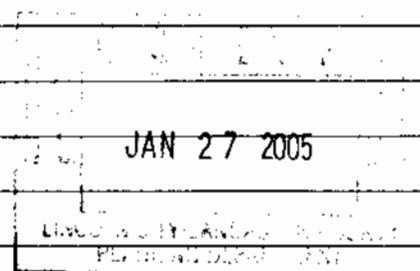
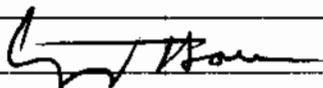
TO WHOM THIS MAY CONCERN:

IT IS THE PURPOSE OF THIS APPLICATION TO REQUEST A SPECIAL PERMIT FOR THE OPERATION OF AN OFFSALE BEER OPERATION ON THE NE CORNER OF 27TH & 'O' ST. LINCOLN, NEBRASKA, ALSO KNOWN OF AS 2700 'O' ST.

WE HAVE RECENTLY SUBMITTED A DETAILED DRAWING TO PLANNING IN RELATION TO THE DRIVE-IN DETAIL. WE HAVE MET ALL PARAMETERS.

SINCERELY,

ROBERT HALL, APPLICANT



**J. Michael Rierden**  
ATTORNEY AT LAW

THE COTSWOLD  
645 "M" STREET  
SUITE 200  
LINCOLN, NE 68508

TELEPHONE (402) 476-2413  
TELECOPIER (402) 476-2948

January 27, 2005

Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street  
Lincoln, Nebraska 68508

RE: Special Permit for Off Sale Liquor Sales at 2700 O Street, Lincoln,  
Nebraska

To Whom It May Concern:

Please consider this letter a Certificate of Ownership for the property set forth above which is legally described as Lot A except the east 48 feet and Lot B and C except the north 20 feet of the east 10 feet and the vacated alley adjacent thereto except for that portion deeded to the City of Lincoln owned by R.G. Hall, L.P., a Nebraska limited partnership. There does not appear to be any liens of record against the property.

Yours very truly,

  
J. Michael Rierden

JMR/jdr



**MICHAEL WOOLMAN**  
**<lpd737@CJIS.CI.LINC**  
**OLN.NE.US>**

02/22/2005 12:43 PM

To: Brian Will <BWill@ci.lincoln.ne.us>  
cc:  
Subject: Alcohol Sales Special Permit #05005

Mr. Will,

The Lincoln Police Department has reviewed the Alcohol Sales Special Permit #05005. We are recommending denial based on the fact that the access doors are within 150 feet of a residential district. We also feel that the proposed drive thru could cause traffic to back up onto North 27th Street and "O" Street causing traffic delays and accidents.

Sergeant Michael Woolman  
Lincoln Police Department

# M e m o r a n d u m

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**To:** Brian Will, Planning Department  
**From:** Charles W. Baker, Public Works and Utilities  
**Subject:** Alcohol Sales Special Permit #05005  
**Date:** February 1, 2005  
**cc:** Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed Off-Sale Alcohol Sales Special Permit located at 2700 "O" Street. Public Works has no objection. The site plan meets design standards.